Blake A. Field VS Google, Inc., Doc. 47

ORIGINAL

2005 SEP 23 A 11:22

Kelly A. Evans
Nevada Bar No. 7691
SNELL & WILMER L.L.P.
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89109
Telephone (702) 784-5200
Facsimile (702) 784-5400

David H. Kramer (Admitted Pro Hac Vice)
William O'Callaghan (Admitted Pro Hac Vice)
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone (650) 493-9300
Facsimile (650) 493-6811

Attorneys for Defendant GOOGLE INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BLAKE A. FIELD, Plaintiff, vs. GOOGLE INC., Defendant.	No. CV-S-04-0413-RCJ-GWF **DEFENDANT GOOGLE INC.'S MOTION TO FILE A SUMMARY JUDGMENT BRIEF IN EXCESS OF THIRTY PAGES**
AND RELATED COUNTERCLAIMS	

. . .

. . .

. . .

. . .

. . .

. . .

Snell & Wilmer L.L.P.
LAW OFFICES
3800 HOWARD HUGHES PARKWAY, SUITE 1000
LAS VEGAS, NEVADA 89109
(702)784-5200

47

Dockets.Justia.com

Pursuant to LR 7-4, Local Rules for the District of Nevada, Defendant Google Inc. ("Google") requests leave to file an oversized Motion for Summary Judgment and accompanying Memorandum of Points and Authorities. Google's Motion seeks dismissal of the Complaint in its entirety pursuant to Fed. R. Civ. P. 56. Google seeks leave to file a motion and accompanying memorandum that is 45 pages long. In support of its Motion, Google states as follows:

Plaintiff's First Amended Complaint alleges copyright infringement of 51 works based on the standard procedure used by Google, as well as other Internet search engines, of providing links to its system cache of the Web pages that served as the basis for the search engine results, as well as more prominent links to the identified Web pages. Plaintiff knew that Google provided links to its system cache, and also knew of industry standard procedures to preclude Google and other search engines from providing such links, before he created the works at-issue. In fact, Plaintiff created the works, made them freely available on the Web site he created, and actively sought to get included in Google's search engine so that he could institute the present action. Plaintiff and Plaintiff alone then clicked on links to Google's cached copy of his works thereby generating copies of his own works that he contends infringe his copyrights. For this, Plaintiff seeks $2,550,000 in statutory damages and injunctive relief.

Google's Motion for Summary Judgment and accompanying Memorandum includes four grounds for summary judgment: that Plaintiff cannot establish infringement, that Plaintiff granted Google an implied license, that Plaintiff is estopped from pursuing the present claim, and that Google's activities are non-infringing fair use. In order to fully address these four issues, Google must discuss, in detail, the operation of search engines and system caches, and industry standard protocols related to them. It must also discuss Plaintiff's own activities to manufacture this claim. In addition, Google must address the current state of the law on these four issues as it applies to the present facts, including analyzing the four part estoppel test and four part fair use balancing test. In light of the importance of this matter to the functionality of the Internet and Internet search engines, and the complexity of four independent grounds for summary judgment, exceeding the 30 page limit is necessary to demonstrate the fundamental and fatal defects in Plaintiff's claim.

Snell & Wilmer
L.L.P.
LAW OFFICES
3800 HOWARD HUGHES PARKWAY, SUITE 1000
LAS VEGAS, NEVADA 89109
(702)784-5200

Justice, fairness, and efficient allocation of judicial resources are all served by allowing Google to address these case-dispositive issues in a thorough manner. Accordingly, Defendant Google requests leave to file its Motion for Summary Judgment and accompanying Memorandum of Points and Authorities in excess of the 30 page limit established by LR 7-4.

Dated: September 23, 2005

SNELL & WILMER L.L.P.

By: [signature]

Kelly A. Evans
Nevada Bar No. 7691
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89109

and

David H. Kramer
William O'Callaghan
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050

Attorneys for GOOGLE INC.

45 pages only.

IT IS SO ORDERED

DATED 10-21-05

[signature]

UNITED STATES DISTRICT JUDGE

Snell & Wilmer
L.L.P.
LAW OFFICES
3800 HOWARD HUGHES PARKWAY, SUITE 1000
LAS VEGAS, NEVADA 89109
(702)784-5200

CERTIFICATE OF MAILING

I certify that a true and correct copy of the foregoing DEFENDANT GOOGLE INC.'S MOTON TO FILE A SUMMARY JUDGMENT BRIEF IN EXCESS OF THIRTY PAGES was served this 23 day of September, 2005, by placing same in the United States mail, postage prepaid, addressed to the following:

Blake A. Field
9805 Double Rock Drive
Las Vegas, NV 89134
Telephone (702) 373-1022
Pro Se Plaintiff

Judith B. LeWarren
An employee of Snell & Wilmer L.L.P.

94313.1

Snell & Wilmer
L.L.P.
LAW OFFICES
3800 HOWARD HUGHES PARKWAY, SUITE 1000
LAS VEGAS, NEVADA 89109
(702)784-5200